

EXHIBIT 13

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

ROBERT SAMPSON, :
: Plaintiff :
: : CIVIL ACTION NO. 2:22-cv-04490-JMA
v. :
: STONY BROOK UNIVERSITY, *et al.*, :
: Defendants :
:

DECLARATION OF CHARLES WEINER

1. I am over 18 years of age.
2. I have personal knowledge of the matters addressed in this Declaration.
3. I am one of the attorneys for the Plaintiff Robert Sampson in the above-captioned matter.
4. I am an attorney licensed to practice law in the Commonwealth of Pennsylvania and State of New York. I am also admitted to practice before the United States Courts of Appeals for the Second, Third, and Sixth Circuits. I am a member of the United States District Courts for the Eastern District of Pennsylvania, the Middle District of Pennsylvania, the Southern District of New York, and the Eastern District of New York.
5. Due to the national scope of my practice and unique experience involving disability law in higher education, particularly representing students in medical licensing testing and other higher education testing, I have also been admitted *pro hac vice* in numerous courts around the country as reflected below in paragraph 14.

6. I graduated from the University of Pittsburgh School of Law in 1988 and was admitted to practice in Pennsylvania in 1988 and in New York in 2016. Accordingly, I have been in the practice of law for nearly 35 years.

7. Since January 2004, I have been an attorney in solo practice in Doylestown, Pennsylvania where my practice is primarily in the area of disability discrimination and special education law.

8. Prior to starting my own practice, I served for several years as counsel in the law departments of Fleet Financial Services and Prudential Insurance Company of America, where I advised, among other things, on matter involving litigation, litigation management and litigation avoidance. In these roles, I managed outside counsel throughout the country in litigation involving compliance, consumer relations, employee relations, and employment discrimination.

9. Between 1992 to 1996, I was a litigation associate with Cozen and O'Connor, which has one of the largest litigation departments in the country. There, I litigated complex multi-district mass-tort or commercial cases.

10. Between 1988 to 1992, I was a litigation associate with Bennett, Bricklin and Saltzburg. There my practice was primarily involved with the defense of tort type litigation. I maintained an active litigation case load of over 100 files. I tried numerous matters as lead or co-counsel, briefed and argued several matters at the appellate level and arbitrated hundreds of cases.

11. Over the past 19 years in my current practice, I have represented several hundreds of individuals with disabilities seeking accommodations pursuant to the Americans with Disabilities Act on post-secondary entrance examinations, professional licensing examinations and certification examinations.

12. I have counseled individuals on the application process, appeals from denials of accommodations and have filed litigation against several testing entities who have denied individuals with disabilities seeking accommodations.

13. I have represented numerous students with disabilities in health sciences institutions including medical students in connection with accommodations and educational programming.

14. I have also litigated cases against the National Board of Medical Examiners, the National Board of Osteopathic Medical Examiners and other post-secondary entrance examiners including the following:

- a. *Lauren Harbaugh v. Nat'l Bd. of Osteopathic Med. Exam'rs, Inc.*, 23 cv-863 (E.D. Pa.).
- b. *Sharmaine Lewis v. Nat'l Bd. of Osteopathic Med. Exam'rs, Inc.*, 21-cv-00181 (S.D. Ind.).
- c. *Brendan J. Berger v. Nat'l Bd. of Med. Exam'rs*, 19-cv-00099, 2019 WL 4040576 (S.D. Ohio, August 27, 2019).
- d. *Emily Behling v. Nat'l Bd. of Med. Exam'rs*, 19-cv-01732 (D. Conn.).
- e. *Amy C. Custer v. Nat'l Bd. of Med. Exam'rs*, 18-cv-00109 (N.D. Ohio).
- f. *Bernadette Bibber v. Nat'l Bd. of Osteopathic Med. Exam'rs, Inc.*, 15-cv-4987, 2016 WL 1404157 (E.D. Pa. Apr. 11, 2016).
- g. *Lauren S. Rosenblatt v. Nat'l Bd. of Med. Exam'rs*, 5:15-cv-00953 (W.D. Tex.).
- h. *Kenneth P. Winnard v. Nat'l Bd. of Med. Exam'rs*, 10-cv-2456 (M.D. Fla.).

- i. *Aaron Hartman v. Nat'l Bd. of Med. Exam'rs*, 09-cv-5028, 2010 WL 1071423 (E.D. Pa., March 22, 2010); *vacated as moot*, 2010 WL 4461673 (E.D. Pa., Oct. 18, 2010).
- j. *Lauren R. Keibel v. Ass'n of Am. Med. Colleges*, 14-cv-00465 (D. Conn.).
- k. *Sean Bach v. Law Sch. Admission Council*, 13-cv-00888 (M.D.N.C.).
- l. *Benjamin C. Hecht v. Law Sch. Admission Council*, 13-cv-01530 (D.D.C.).
- m. *Michael Logan v. Law Sch. Admission Council*, 11-cv-1246 (D. Minn.).
- n. *Jacob Lieberman v. Law Sch. Admission Council*, 09-cv-5274 (S.D.N.Y.).
- o. *S.C., a minor, et. al. v. ACT, Inc.*, 20-cv-623 (N.D. Tex.).
- p. *R.R., a minor, et. al. v. ACT, Inc.* 12-cv-0314 (S.D.N.Y.).

15. I have spoken extensively at the national, state and local level on the rights of individuals with disabilities and have been invited to speak at several national conferences by the Association for Higher Education and Disability (AHEAD), Coalition for Disability Access in Health Science Education, American Bar Association, American Speech-Language-Hearing Association (ASHA), and the National Stuttering Association.

16. From 2014 – 2017, I was selected to serve as a commissioner for the American Bar Association's Commission on Disabilities.

17. In Philadelphia and surrounding areas, where the undersigned is located, the Community Legal Services' (CLS) fee survey has been found to be probative of the reasonableness of hourly attorney rates. *See* CLS Attorney Fees Survey, effective January 19, 2023, <https://clsphila.org/about-community-legal-services/attorney-fees/> (last visited June 16, 2023). The CLS Fee Survey has been endorsed by the United States Court of Appeals for the Third Circuit as a reasonable reflection of market rates for civil rights actions. *See Maldonado v.*

Houstoun, 256 F.3d. 181, 187-188 (3d Cir. 2001); *Sch. Dist. of Phila. v. Kirsch*, 722 Fed. Appx. 215, 230 (3d Cir. 2018). Pursuant to the CLS fee schedule, the prevailing rate for an attorney with more than 25 years' experience is \$735.00 to \$850.00 per hour.

18. At the Law Office of Charles Weiner, the current rate for individuals who have the financial means to pay is \$450.00 per hour. This is a discounted rate that allows my services to be more affordable for individuals able to pay. However, even at this discounted rate, individuals are unable to pay the attorneys' fee and costs incurred in litigation necessary to access federally protected rights. I accordingly discount my rate and rely on the fee-shifting provisions of federal civil rights laws, such as the ADA, to be appropriately compensated for my services.

19. My reasonable rate in this District is \$450.00 per hour. This rate is significantly less than the rate set forth in the CLS survey for attorneys with comparable years of experience.

20. The details of the professional services I performed in this matter are contained in the documents attached as Exhibit A to this Motion. I have exercised billing discretion in deleting time that was redundant or inefficient.

21. I served as co-lead counsel and participated in drafting and revising all briefings and motions, participating in status conferences, and communicating with Mr. Sampson and opposing counsel on various matters relating to this litigation.

22. I also relied upon my legal assistant to perform various tasks particularly for preparation of litigation material. In the exercise of billing discretion, this time by my legal assistant has been fully discounted in this matter.

I declare under penalty of perjury that the foregoing statements are true and correct.

Date: 08/23/2023

Respectfully submitted

s/Charles Weiner

Charles Weiner, Esquire

LAW OFFICE OF CHARLES WEINER

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Attorney of Plaintiff, Robert Sampson

EXHIBIT A

Law Office of Charles Weiner

Attorney at Law
99 Lantern Drive Suite 202
Doylestown, PA 18901
Phone: 267-685-6311 | Fax: 215-340-7685

Robert D. Sampson

Invoice Date: August 23, 2023
Invoice Amount: \$26,010.00

Matter: Robert Sampson / Stony Brook SOM

Attorney's Fees

6/29/2022	Client counseling.	C.W.	1.70	\$765.00
6/30/2022	Transmittal of e-mail memo to co-counsel re: state law claims and constitutional due process claim issues.	C.W.	.10	\$45.00
7/5/2022	Transmittal of e-mail to client re: exam testing data and provide draft language for making a request for time data from SBSOM.	C.W.	.30	\$135.00
7/6/2022	Zoom conference with Attys. Vargas and Stein re: clarification of client medical school time line and litigation strategy.	C.W.	1.00	\$450.00
7/6/2022	Zoom w/ team re: litigation.	C.W.	1.00	\$450.00
7/7/2022	Review and respond to e-mails from co-counsel re: 7 year policy.	C.W.	.20	\$90.00
7/7/2022	Contact with several former clients re: potential witness on declaration issues involving 7 year policy.	C.W.	.50	\$225.00
7/7/2022	Prepare and transmittal of email memo re: students graduating beyond 7 years.	C.W.	.20	\$90.00
7/11/2022	Telephone conference with Atty. Vargas re: exhibit for PI.	C.W.	.20	\$90.00
7/15/2022	Legal research re: ADA and 504.	C.W.	.80	\$360.00
7/15/2022	Research re: USMLE policies impact medical school timeline.	C.W.	.40	\$180.00
7/15/2022	Review and revise draft complaint and transmittal revisions to co-counsel.	C.W.	1.20	\$540.00

7/20/2022	Transmittal of email to co-counsel re: draft declarations.	C.W.	.20	\$90.00
7/25/2022	Review and revise draft Preliminary Injunction Brief and transmittal of edits and additions to co-counsel.	C.W.	1.50	\$675.00
7/27/2022	Review and revise Preliminary Injunction motion.	C.W.	1.00	\$450.00
7/27/2022	Review Lisa Meeks CV and selected research articles for preparation of Declaration supporting PI.	C.W.	.80	\$360.00
7/27/2022	Preparation of Declaration.	C.W.	.50	\$225.00
7/28/2022	Zoom call with Lisa Meeks and Mary Vargas re: Declaration.	C.W.	1.00	\$450.00
7/28/2022	Telephone conference with Atty. Vargas re: PI.	C.W.	.10	\$45.00
7/29/2022	Review additional research articles re: changes in timing to USMLE Step 1, Impact of NBME denials of accommodations and performance of medical student with disabilities for preparation of Meeks Declaration.	C.W.	1.00	\$450.00
7/29/2022	Review and revise Proposed Order for Preliminary Injunction.	C.W.	.20	\$90.00
7/29/2022	Preparation of draft declaration.	C.W.	1.30	\$585.00
7/29/2022	E-mail exchanges with Dr. Meeks re: revisions to Declaration.	C.W.	.50	\$225.00
7/29/2022	Review, revise and finalize Declaration.	C.W.	.70	\$315.00
7/29/2022	Review and revise Motion for Preliminary Injunction.	C.W.	.20	\$90.00
7/29/2022	Review and revise Brief In support of Motion for Preliminary Injunction.	C.W.	1.30	\$585.00
7/29/2022	Review and revise complaint.	C.W.	.40	\$180.00
8/4/2022	Conference call with Judge Azrak re: Preliminary Injunction scheduling.	C.W.	.50	\$225.00
8/4/2022	Client update / counseling.	C.W.	.30	\$135.00
9/19/2022	Transmittal of e-mail to Atty. Vargas re: filing under seal and bundling issues.	C.W.	.10	\$45.00
9/20/2022	Review Defendants Opposition to Plaintiff's Motion For Preliminary Injunction. Review two witness declarations and exhibits supporting opposition.	C.W.	1.60	\$720.00
9/20/2022	Legal research re: deference to educational institutions and fundamental alteration standards under ADA.	C.W.	.80	\$360.00
9/20/2022	Transmittal of e-mail memo to co-counsel re: Reply to Defendants Opposition to Motion for Preliminary Injunction.	C.W.	.30	\$135.00
9/21/2022	Transmittal of e-mail to client re: summary of facts showing opposition to SB statement of facts.	C.W.	.10	\$45.00
9/22/2022	Review draft Reply Brief for PI, prepare additional facts and argument and draft revisions.	C.W.	2.30	\$1,035.00
9/23/2022	Review Sampson's fact dispute e-mail and supporting documents.	C.W.	.40	\$180.00
9/23/2022	Review documents and prepare declaration supporting Reply Brief re: efforts to resolve NBME matter.	C.W.	1.10	\$495.00
9/23/2022	Review and revise Sampson supplemental	C.W.	1.30	\$585.00

	declaration. Review, identify, and organize exhibits to declaration.			
9/23/2022	Review and revise Reply Brief for Preliminary Injunction. Check and incorporate citations to the record.	C.W.	.70	\$765.00
9/23/2022	Revise Declaration. Select and annex exhibits to declaration and finalize exhibits.	C.W.	.50	\$225.00
9/23/2022	Telephone conferences with Atty. Vargas re: reply brief issues and exhibits.	C.W.	.60	\$270.00
9/26/2022	Create and review binders with Motion for Preliminary Injunction and Reply in Support of Preliminary Injunction.	C.W.	.80	\$360.00
9/27/2022	Draft letter to Judge Azrack re: Motion for Preliminary Injunction and Reply binders.	C.W.	.20	\$90.00
10/6/2022	Telephone conference with Court.	C.W.	.20	\$90.00
10/6/2022	Telephone conference with Atty. Vargas re: preparation for telephonic hearing with court.	C.W.	.40	\$180.00
10/6/2022	Review court order and review letter from opposing counsel.	C.W.	.60	\$270.00
12/5/2022	Transmittal of e-mail to Atty. Vargas with recommended strategy for handling SB matter.	C.W.	.20	\$90.00
12/5/2022	Transmittal of e-mail to Atty. Lynch re: proposed resolution meeting .	C.W.	.20	\$90.00
12/5/2022	Telephone conference with Helena Lynch re: time table for client to take exam and reschedule of court conference.	C.W.	.20	\$90.00
12/5/2022	Exchange of emails with Atty. Vargas re: summary of communications with Atty. Lynch.	C.W.	.20	\$90.00
12/8/2022	Telephone conference with Vargas and telephone conference with Vargas and client re: negotiations with SB.	C.W.	.70	\$315.00
12/9/2022	Status conference.	C.W.	.20	\$90.00
12/9/2022	Client counseling.	C.W.	.40	\$180.00
1/9/2023	Review and revise consent decree.	C.W.	.70	\$315.00
1/9/2023	Legal research regarding consent decrees and counsel fees.	C.W.	.40	\$180.00
1/18/2023	Review e-mails for co-counsel and provide comments and input regarding consent decree and confidentiality statement.	C.W.	.20	\$90.00
1/24/2023	Telephone conference with Atty. Vargas re: AG rejection of proposed settlement terms.	C.W.	.50	\$225.00
1/24/2023	Transmittal of e-mail to Atty. Lynch re: meeting over resolution.	C.W.	.20	\$90.00
1/25/2023	Telephone conference with Mary Vargas re: negotiation/stipulation.	C.W.	.20	\$90.00
1/25/2023	Telephone conference with Atty. Vargas and Atty. Lynch re: negotiations.	C.W.	.50	\$225.00
5/1/2023	Review and edit and comment on draft of Stipulation.	C.W.	.60	\$270.00
5/3/2023	Telephone conference with Atty. Vargas re: strategy for status conference.	C.W.	.60	\$270.00

5/3/2023	Draft and transmittal of e-mail to Atty. Lynch re: settlement discussions with NBME's counsel.	C.W.	.10	\$45.00
5/3/2023	Status conference.	C.W.	.30	\$135.00
5/3/2023	Status conference.	C.W.	.20	\$90.00
5/3/2023	Review and comment on draft stipulation.	C.W.	.20	\$90.00
5/3/2023	Telephone conferences with Atty. Vargas re: stipulation and impact.	C.W.	.30	\$135.00
5/3/2023	Client counseling.	C.W.	.40	\$180.00
5/24/2023	Draft email the Atty. Lynch re: draft Stipulation.	C.W.	.10	\$45.00
5/30/2023	Draft and transmittal of e-mail to Atty. Lynch re: fee petition timetable.	C.W.	.30	\$135.00
6/13/2023	Telephone conference with Atty. Vargas re: strategy for status conference and final resoution.	C.W.	.40	\$180.00
6/13/2023	Participation in court ordered conference call.	C.W.	.30	\$135.00
6/20/2023	Review letter from Atty. Lynch re: medical school program and transmittal of email to client.	C.W.	.10	\$45.00
6/20/2023	Draft and transmittal of letter to Attorney Lynch re: negotiations.	C.W.	.40	\$180.00
6/20/2023	Client counseling	C.W.	1.30	\$585.00
6/21/2023	Review Atty. Lynch response letter.	C.W.	.10	\$45.00
6/21/2023	Telephone conference with Atty. Vargas re: Lynch response and preparation for status conference .	C.W.	.10	\$45.00
6/21/2023	Participate in status conference.	C.W.	.20	\$90.00
6/21/2023	Client counseling.	C.W.	.80	\$360.00
6/21/2023	Review Lynch letter re: negotiations.	C.W.	.10	\$45.00
6/26/2023	Review Lynch letter and draft response re: Sampson return to medical school.	C.W.	.40	\$180.00
6/28/2023	Revise letter to Atty. Lynch and transmittal of letter to client re: negotiations.	C.W.	.30	\$135.00
6/29/2023	Client counseling	C.W.	.80	\$360.00
6/29/2023	Review academic record for marginality points and LOA issues. Draft and transmittal of memo to Attys. Vargas and Stein re: marginality points, LOA and Dean's letter issues to be addressed in settlement agreement; and recommendations for next steps and strategy for case.	C.W.	.80	\$360.00
7/5/2023	Transmittal of emails to Atty. Lynch re: negotiations.	C.W.	.20	\$90.00
7/5/2023	Draft and filing of letter order to court re: scheduling.	C.W.	.10	\$45.00
7/6/2023	Review revisions to settlement agreement.	C.W.	.30	\$135.00
7/7/2023	Review client's comments about settlement agreement and revisions and transmittal email revisions to co-counsel regarding revisions and applying for accommodations.	C.W.	.40	\$180.00
7/10/2023	Review and compare prior Settlement Agreement Draft and provide comments and proposed revisions.	C.W.	.70	\$315.00
7/10/2023	Telephone conf. with Atty. Vargas re: response to SB's latest settlement agreement draft.	C.W.	.20	\$90.00
7/10/2023	Review email from Atty. Lynch and draft and transmittal of email response.	C.W.	.50	\$225.00

7/11/2023	Review Stony Brook's revisions to Settlement Agreement and transmittal email with comments and recommendations to co-counsel.	C.W.	.20	\$90.00
7/11/2023	Draft and transmittal of e-mail to Atty. Lynch re: disputed issues in Proposed Settlement Agreement.	C.W.	.20	\$90.00
7/11/2023	Telephone conference with Atty. Lynch re: negotiations on propose settlement agreement language.	C.W.	.40	\$180.00
7/11/2023	Status conference.	C.W.	.10	\$45.00
7/11/2023	Telephone conference with Atty. Vargas re: revisions to settlement language.	C.W.	.10	\$45.00
7/11/2023	Telephone conference with Atty. Vargas re: negotiations.	C.W.	.10	\$45.00
7/26/2023	Review and provide comments and suggested changes to Settlement Agreement and transmittal to attorney Vargas.	C.W.	.40	\$180.00
7/31/2023	Telephone call with Atty. Vargas re: fees and fee petition issues.	C.W.	.20	\$90.00
8/9/2023	Review and provide comment to declaration and transmittal comments to Atty. Vargas.	C.W.	.60	\$270.00
8/9/2023	Legal research on meaning of "judicial imprimatur" and draft legal memoranda.	C.W.	1.30	\$585.00
8/15/2023	Review Draft Motion for Counsel Fees and draft comments and revisions.	C.W.	1.30	\$585.00
8/21/2023	Meet with declarant to request declaration in support of fee petition.	C.W.	.50	\$225.00
8/21/2023	Review draft declaration and provide edits and changes. Transmittal email to declarant.	C.W.	.50	\$225.00
8/21/2023	Prepare declaration supporting Motion for Fees and Costs.	C.W.	.40	\$180.00
8/22/2023	Review and revise and provide comment of fee petition brief.	C.W.	1.00	\$450.00
8/22/2023	Review and revise witness declaration and transmittal to witness for approval and signature.	C.W.	.30	\$135.00
8/22/2023	Review and revise declaration, review and revise exhibits and supporting documentation for fee petition.	C.W.	1.20	\$540.00
8/23/2023	Finalize declaration and exhibits supporting fee petition.	C.W.	.50	\$225.00
SUBTOTAL:			57.80	\$26,010.00

TOTAL \$26,010.00